

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

Attorney General of Ontario

Applicant

- and -

\$1,393,406.98 in Canadian Currency (*in rem*)

Respondent

An Application under Rule 38 of the Rules of Civil Procedure
for a Forfeiture Order under the *Civil Remedies Act, 2001*



Electronically issued:
Délivré par voie électronique
Ottawa

NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*):

- ☐ In person
- ☐ By telephone conference
- ☒ By video conference

at the following location: 161 Elgin St, Ottawa, Ontario, on **a date to be set by the registrar**.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Issued by Amanda Arndt

Address of court office Ottawa Courthouse
161 Elgin Street, 2nd floor
Ottawa, ON
K2P 2K1

I. Relief Sought

1. The Applicant makes application for an Order:
 - a. forfeiting \$1,393,406.98 in Canadian currency originally deposited into two TD bank accounts and currently held in escrow by KSV Restructuring Inc. ("KSV") pursuant to the Order of Justice C. MacLeod dated March 10, 2022 ("the property"), together with any and all accumulated interest, to the Crown in right of Ontario pursuant to sections 3 and 8 of the *Civil Remedies Act*, 2001, S.O. 2001, c. 28 (*Civil Remedies Act*);
 - b. validating service of this notice of application, if necessary, pursuant to Rule 16.08 and 17.02(a);
 - c. granting the costs of this application to the Applicant; and
 - d. such further and other Order as counsel may advise and this Honourable Court may deem just.

II. The Grounds for the Application

The Property is the Proceeds and an Instrument of Unlawful Activity

2. Pursuant to subsections 3(1) and 8(1) of the *Civil Remedies Act* the Court shall, except where it would clearly not be in the interests of justice, make an order forfeiting property to the Crown in right of Ontario if the court finds that, on a balance of probabilities, the property is proceeds and/or an instrument of unlawful activity.

3. Pursuant to sections 2 and 7(1) of the *CRA*, “unlawful activity” is defined as an act or omission that is an offence under any Act of Canada, Ontario, or any other province or territory of Canada.
4. The property is proceeds of unlawful activity and an instrument of unlawful activity.
5. There is no uninvolved interest holder or responsible owner in relation to the property, as those terms are defined in s.2 and 7(1) of the *Civil Remedies Act*.
6. The exception to forfeiture, where it would clearly not be in the interests of justice, does not apply. The interests of justice favour forfeiture of the property to the Crown.

Funds Raised for Illegal Blockades

7. The property consists of funds raised to further unlawful activities organized by Tamara Lich (“Lich”) and Chris Barber (“Barber”) along with several individuals describing themselves as the “Freedom Convoy”.
8. In January and February 2022, Lich and Barber, along with others, organized an illegal blockade of city streets in Ottawa using long haul trucks. The organizers referred to themselves as the “Freedom Convoy”.
9. The blockade occupied the streets of Ottawa around Parliament Hill, blocking downtown arteries and constantly blaring air horns. The blockade continued for over three weeks, from January 28, 2022 to February 21, 2022.

10. A similar blockade organized by the “Freedom Convoy”, including Lich and Barber, took place on the Ambassador bridge in Windsor from February 7, 2022 to February 13, 2022.
11. The blockades caused damage to individuals and businesses in Ottawa and Windsor and hampered travel and trade. This included physical and psychological injury to Ottawa residents due to noise, harassment and intimidation by “Freedom Convoy” participants, the prolonged closure of Ottawa businesses, damage and defacement to public property, economic losses to industries who rely on international trade in the form of goods and services flowing across the Ambassador bridge, and damage to the Ontario and Canadian economies.
12. The blockades resulted in significant cost to the public in the form of increased policing costs and the cost to clean and repair public spaces.
13. Organizers including Lich and Barber directed and encouraged the blockades to continue despite being advised that the activities were unlawful.
14. Several orders were issued in attempts to end the unlawful activity. These include:
 - a February 7, 2022 *ex parte* 10-day injunction issued by the Superior Court, obtained by an Ottawa resident, Zexi Li, prohibiting the blaring of truck horns in Ottawa.

- a February 11, 2022 injunction issued by the Ontario Superior Court, requiring the convoy to clear the Ambassador bridge in Windsor.
 - a February 10, 2022 *ex parte* restraint order obtained by the Attorney General, pursuant to s.490.8 of the *Criminal Code*, freezing the funds raised for the “Freedom Convoy” on the fundraising platform GiveSendGo on the basis that there were reasonable grounds to believe the funds were offence-related property.
15. As the result of the ongoing unlawful activity, the Premier declared a state of emergency in Ontario pursuant to the *Emergency Management and Civil Protection Act* on February 11, 2022 and the Prime Minister invoked the *Emergencies Act* on February 14, 2022.
 16. Ultimately, the blockades were cleared by police as the result of legal actions taken to address the unlawful activity.
 17. A proposed class action, bearing court file number CV-22-00088514-00CP, has been filed with the Ontario Superior Court by individuals and businesses who seek damages for injuries and losses caused by the blockades (“proposed class action”).

Fundraising For Unlawful Activities

18. Throughout the period of the blockades, Lich, Barber and others encouraged individuals to make donations in support of their own unlawful activities and the unlawful activities of those they organized and directed.

19. In response to these requests, starting January 18, 2022 and on an ongoing basis, various individuals (“Depositors”) deposited funds via direct email transfer into a personal bank account opened jointly in the names of Lich and Barber at TD bank (“the Account”).
20. As of February 10, 2022, at 11:03 am, approximately 3,000 Depositors had contributed a total of \$419,406.98 to the Account.
21. On January 14, 2022, an online fundraising campaign was created called Freedom Convoy 2022 hosted by the fundraising platform www.gofundme.com (“GoFundMe”). Lich was listed as the Organizer on the GoFundMe website for this online campaign.
22. On February 2, 2022, GoFundMe made a lump sum deposit of \$1,000,000 from the Freedom Convoy 2022 campaign into the Account. The GoFundMe Deposit was made up of contributions from multiple donors.
23. On January 31, February 1, and February 3, 2022, portions of the funds held in the Account, made up entirely from deposits made by the Depositors and the GoFundMe Deposit, were transferred from the Account into a second personal bank account opened in the name of Lich at TD Bank (the “Second Account”).
24. On February 1, 2022, \$20,000 was withdrawn from the Second Account. Additional withdrawals totalling \$6,000 were made on January 31, 2022 and February 1, 2022.

25. On February 4, 2022, GoFundMe removed the Freedom Convoy 2022 fundraiser from its platform due to a violation of their Terms of Service, namely that it promoted violence and harassment.
26. On February 4, 2022, the Account was placed on a hold by TD bank as were the funds that were transferred from the Account to the Second Account. The hold prevented the funds from flowing out of the account but did not prevent further donations.
27. As of March 8, 2022, TD bank was holding approximately \$1,393,406.98 in funds on deposit in the Account and the Second Account representing the sum of the deposits by Depositors and the GoFundMe deposit.
28. Public statements by Lich, Barber and others made to the media and online through social media and on the GoFundMe fundraising campaign website confirm that the deposits made into the Account were intended by Depositors, contributors to GoFundMe, Lich and/or Barber to finance the continued blockades of Ottawa streets and the Windsor Ambassador bridge and other unlawful activities.
29. Lich, Barber and other “Freedom Convoy” organizers publicly stated that donations were being solicited to finance their “movement”, as well as for the purchase of fuel from a bulk fuel supplier and food and lodging to allow participants to continue the unlawful blockades.

Lich and Barber

30. Lich and Barber were two of the key architects of the “Freedom Convoy” unlawful activity. Throughout the period of the blockades, they participated in, organized and directed the unlawful activity.
31. A non-profit corporation, Freedom 2022 Human Rights and Freedoms was incorporated on January 30, 2022 under the *Canada Not-for-profit Corporations Act*. Tamara Lich and Chris Barber were added as directors of the corporation on February 3, 2022.
32. On February 9, 2022, Lich posted on her Twitter account stating that spokespeople had been approved by the board of directors, attaching a document. The document confirmed that Lich and Barber were authorized spokespeople for the “FreedomConvoyCanada”.

Association to Unlawful Activity

33. On February 18, 2022, as the result of their activities in organizing and participating in the continued illegal blockades, Lich and Barber were charged with *Criminal Code* offences.
34. Lich was charged with counselling to commit the offence of mischief and mischief pursuant to s.464(a) and 430(1) of the *Criminal Code*.
35. Barber was charged with counselling to commit the offence of mischief, mischief, counselling to commit the offence of disobey court order and

counselling to commit the offence of obstruct police contrary to s.464(a), s.430(1), 464(a), s.127 and s.129 of the *Criminal Code*.

36. The prosecutions of Lich and Barber are ongoing.

Status of the Property and Limit of Claim

37. The property is currently held in escrow pursuant to the March 10, 2022 Order of Justice C. MacLeod of the Ontario Superior Court in the proposed class action. The Order provides for the property to be preserved and held in escrow by court-appointed escrow agent KSV Restructuring Inc. (“KSV”).
38. The Attorney General seeks forfeiture of the property to the extent that it does not form part of an award of damages to the plaintiffs or a settlement agreement in the proposed class action. The Attorney General expressly limits this claim to that portion of the property that does not form part of such an award or settlement.
39. Rules 38 and 39 of the *Rules of Civil Procedure* govern the procedure and evidence on an application and/or a motion.
40. Pursuant to Rule 14.05(2) of the *Rules of Civil Procedure*, and sections 3(2) and 8(2) of the *Civil Remedies Act*, an application for forfeiture may be brought in the Ontario Superior Court of Justice.
41. Pursuant to Rule 17.02(a) of the *Rules of Civil Procedure*, a party to a proceeding may, without a court order, be served outside Ontario with an

originating process where the proceeding against the party consists of a claim or claims, in respect of real or personal property in Ontario.

42. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Application:

1. Application Record of the Attorney General of Ontario; and
2. Such further and other evidence as counsel may provide, and this Honourable Court may permit.

DATED at Toronto, this 15th day of March, 2022.

Susan Keenan / Amy Then

LSO# [REDACTED] / LSO [REDACTED]

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Civil Law Division
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Court file No.:

Attorney General of Ontario

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Civil Remedies Act, 2001

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